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September 24, 2002

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW – Room TW-A325
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


**Re: Ex Parte Notice – Consolidated Application of EchoStar
Communications Corporation, General Motors Corporation and
Hughes Electronics Corporation for Authority to Transfer Control,
CS Docket No. 01-348**

Dear Ms. Dortch:

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. §1.1206, EchoStar Communications Corporation, Hughes Electronics Corporation and General Motors Corporation, Applicants in the above-referenced merger proceeding, submit the attached additional information regarding the Applicants' diversion analysis in response to a methodological question raised by the staff during an *ex parte* meeting held on September 12, 2002.¹

An original and one copy of this *ex parte* notice (and two copies of the attachment) are being filed with the Commission. If you have questions concerning this notice, please do not hesitate to contact the undersigned.


Respectfully submitted,


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Attachment

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¹ See Letter from Pantelis Michalopoulos to Marlene H. Dortch, CS Docket No. 01-348 (Sept. 13, 2002).

Additional Information Regarding Diversion Analysis

On September 12, 2002, Dr. Robert Willig and Dr. Andrew Joskow presented to the FCC staff further data on the diversion of subscribers between EchoStar and DIRECTV. Two basic sets of results were presented. The first looked at the number of people who left one of the DBS providers, by month, and the number of people who left and switched to the other DBS provider. As set forth in that presentation, these analyses indicate the range of diversion from one DBS firm to the other is between [] and [], and indeed that the effect of the merger could be appropriately analyzed with a figure closer to [].¹ The other approach looked at the relative change in switching behavior that occurred before and after the price increases implemented by either DIRECTV or EchoStar. To calculate this change in diversion behavior, the diversion six months after the price increase was compared to the diversion six months before the price increase.² This approach also led to diversion ratios on the order of [].

In connection with the latter approach, we have now also calculated diversion rates based on "asymmetrical" time periods on either side of the price increase -- more time after the price increase than before it. Thus, we calculated the average number of subscribers that left DIRECTV and switched to EchoStar, for ten months after its August 2000 price increase and compared this to the average number of subscribers that left DIRECTV and switched to EchoStar during the three months prior to the price increase. We then divided this by the average number of subscribers that disconnected from DIRECTV in the ten months after the price increase less the average number of subscribers that left during the three months before the price increase.

For just the voluntary disconnections, the diversion ratio calculated using this time window is [], as compared to [] when the calculation is done comparing six months after the price increase to six months before the price increase.³ For both voluntary and involuntary disconnections, the diversion ratio is again [], as compared to []

¹ Dr. Andrew Joskow and Dr. Robert Willig, *Report on Further Analysis of the Diversion Ratio Between EchoStar and DIRECTV* (Sept. 12, 2002).

² See *id.* at n. 7.

³ We also tested whether comparing three months before the price increase to the 12 months after the price increase meaningfully changed the results, and it did not.

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for the six month before and after calculation.⁴ Finally, if one examines the diversion from EchoStar to DIRECTV around the time of the two EchoStar price increases, the diversion ratio does not meaningfully change when using this longer timeframe after the price increases.

⁴ These diversion ratios are derived from the disconnection numbers that correct for the number of subscribers that cited moving as their reason for disconnecting from DIRECTV.